

Appeal Moneystone Quarry

Planning Inspectorate APP/3438/W/17/3170628

SMD/2014/0682

## STATEMENT OF EVIDENCE

PAUL HOUSIAUX

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I make this statement in relation to the Planning Appeal ref APP/B3438/W/16/3144848 & APP/B3438/W/17/3170628 in respect of the appeal lodged by the Appellants in the matter of the refusal of planning application SMD/2014/0682 for permission to develop at Moneystone Quarry. The contents are true to the best of my knowledge and belief.

I refer to my earlier statement of case and documents submitted to the appeal in 2016 receipt of which PINS have already acknowledged. My approach in presenting my evidence to the Appeal hearing is to confirm that I support the decision of the Planning Application Committee ( PAC) to refuse the application 0682 in November 2015 and the grounds given in the Notice of Refusal dated 2nd.December 2015.

It will also be my case that the PAC were entitled to refuse the application on wider grounds than set out in Notice of Refusal on the basis of the findings made by the PAC not translated into the notice. ( eg. See Highways etc below)

### **1. My background.**

My training and professional background taught me the value of always establishing the facts and the evidence in any particular matter before coming to a judgement. I am a great believer in the concept of informed consent. It seems to me axiomatic that if I am invited to take part in the planning process I should be able to access all relevant information that will help me decide if I support or object to any particular planning application. If information I consider central to my making a decision on the basis of informed consent is denied or withheld from me I feel that I have little option but to object to that development.

In making this statement it is my intention to place before the Planning Inspector factual information so as to assist him in reaching his decision on the appeal SMD/2014/0682. As far as possible I will avoid expressing an opinion that is not based on fact or evidence as I regard it as the Planning Inspectors role to make such judgements.

As I lack any expertise in planning law and procedures I apologize in advance if I stray into error and invite the Inspector to correct me as appropriate.

### **2. My home.**

I purchased my home in 2002. I live with my partner and we retired to live here. The property faces West and the front door step is a measured 38 inches from the road surface of Whiston Eaves Lane and lies on the Oakamoor side of the A52/ Whiston Eaves junction and is a measured distance of 90 yards from that junction. On the eastern gable of my home we have erected a conservatory in which we spend a lot of time and which gives a clear and largely unobstructed view of Whiston Eaves Lane for some distance towards the A52 and towards Moneystone Quarry.

In the 15 years we have lived at this property we have gained a detailed knowledge of the traffic flows along Whiston Eaves Lane in both directions. When the former owners of Moneystone Quarry, Sibelco, made a planning application number SMD/2006/0669 to expand the extraction of silica sand from Moneystone Quarry up to and in part to wrap around parts of the village ' envelope' , I and other residents opposed the application.

At that time I gave permission for my conservatory to be used for the purpose of detailed monitoring of traffic, noise and dust. This was by way of photographic, dust collection and audio recordings to ensure accurate evidence was available.

Once Sibelco closed the quarry extraction in 2010 the traffic levels along Eaves Lane / Whiston Eaves Lane fell dramatically. Apart from local domestic traffic the vast majority of vehicles passing my home to or from

the quarry prior to 2010, were lorries transporting sand. In the year 2010-2011 virtually all quarry traffic ceased in both directions.

The 4-6 members of Laboratory staff who continued to work in the Sibelco Laboratory at the quarry travelled passed my home between 7-8 am and 4-6pm each week day until the laboratory closed in the middle of 2017.

I give below my evidence of traffic flows passing my home since 2011 up to the present date.

### **3. A meeting with Mr. Peter Swallow Director and Share holder in Laver Leisure ( Oakamoor) Limited in August 2010.**

When Sibelco decided to close the Moneystone Quarry the director with responsibility for Moneystone Quarry, a Mr. Gary Stringer, began calling on me at my home. He told me that his visits were prompted by a desire of his and the company to ensure it's ongoing legal obligations of restoration were met and to discuss leaving a legacy to the residents as a 'thank you' for their tolerance and forbearance over the years that the quarry had been in operation.

Arising out of those meetings Mr Stringer offered to introduce me to the new purchasers of Moneystone Quarry as soon as the sale was complete. He kept that promise and brought Mr. Swallow to my home in August 2010 and introduced him.

I had taken the opportunity to research Mr. Swallow's business background before he arrived. I knew him to have other companies that operated various holiday parks mainly on the east coast. During his visit I asked Mr. Swallow a number of detailed questions and noted his replies. I asked him if his plans for Moneystone quarry would result in it being another 'Alton Towers'. He said it would not.

I asked if the development would be another Centre Parcs. He said it would not.

I asked him if it would be used for land fill. He said it would not.

I asked him if it would be used for caravans, tents, etc. He said it would not.

I asked him if any of the accommodation at the quarry would become permanent private dwellings. He confirmed that they would not.

In 2011 I attended an exhibition the Appellants put on in Whiston Village Hall. Displayed on boards were pictorial plans for Moneystone Quarry. They included areas for caravans and camping, 600+ lodges and a 100+ bed hotel, Development in Black Plantation was indicated for private sale and occupation. By the time the application SMD/2014/0682 was validated in October 2014 plans for caravans and tents had been removed.

### **4. The structure of Whiston Eaves Lane road surface.**

In the years we have lived in Whiston together with my partner we have accumulated some historical documents, tithe maps, and 17th, 18th and 19th. century original documents with a view to writing a history of the village. Those documents are now lodged with the Staffordshire County records together with a private Act of Parliament passed under the Enclosure acts and dated 1802.

This has helped me have a clear understanding of the history and development of what is now called Whiston Eaves Lane. It began life as a 'road' in the mid eighteen hundreds as a beaten earth path across an unenclosed common designated on some maps as Bilberry Common. With the growth of motorized traffic a slow accretion of tar wash and pebbles eventually formed what is today called Whiston Eaves Lane. Where the 'road' met Whiston Eaves Hall, Whiston Eaves Lane became Eaves Lane which already had it's own dedicated road leading from Oakamoor with the established name of Eaves Lane, a designation it still retains.

When Sibelco filed it's plan to extend extraction of sand in 2006, my neighbour, Mr. A. Walters ( now deceased), a retired Highway Engineer approached me. He handed me his file of planning correspondence stretching back to 1986 evidencing various planning applications by the former Moneystone Quarry owners, British Industrial Sand. Because of various disputes and concerns Mr. Walters had had over a number of years about the number and weight of vehicles using Whiston Eaves Lane he has caused test drillings to be made of the road to confirm that it had no substrate.

SMDC have accepted this as accurate \* (email by AS in Solar Farm SMD/2014/0220). An inspection of the road surface along its length to Oakamoor supports this finding.

When Sibelco operated Moneystone Quarry they would occasionally arrange private patch repairing of small sections of the road. Since the cessation of quarrying such repairs have ceased. Even though Whiston Eaves Lane/ Eaves Lane now carries very light volumes of traffic an inspection will reveal that the road surface is deteriorating.

### **5. Traffic Volumes along Whiston Eaves Lane/ Eaves Lane.**

Once it became clear that the proposed leisure development SMD/2014/0682 was to be formalized I felt it might be useful to monitor the volumes of traffic using the route from the A52 to Oakamoor. Although I already had a clear understanding of the extent and the local nature of traffic patterns passing in either direction I felt it important to use a reliable method of monitoring.

I therefore set up a 24 hour motion triggered camera in my conservatory periodically during late 2014 and 2016 so that I could establish a base line norm of traffic flow against which to judge the effects of the proposed SMD/2014/0682. Because of memory capacity issues with my motion triggered camera, battery costs etc. in April 2016, believing the proposed development was not to go ahead I cleared the memory of the camera so that I could return it to monitoring wild life. Upon learning of a decision to renew the appeal of the refusal of SMD/2014/0682 I conducted further monitoring of traffic flows passing my home. It quickly became apparent that traffic flows had not changed and upon hearing that the Appellants had cancelled the listed public hearing of the appeal in December 2016 I again cleared the camera memory. Despite that I am able to give detailed evidence on the movement of vehicle passing my home. To do so would be time consuming and tedious. However if the Inspector wishes me to do so I can.

It seems to me that it might be more useful to the Inspector if I give some general traffic trends upon which I can elaborate if required. These are;

- \* The majority of traffic turning off the A52 into Whiston Eaves Lane does so from the direction of Kingsley. A lesser number of vehicles turn into the Lane from the Ashbourne direction.

- \* The vast majority of vehicles turning out of Whiston Eaves Lane on to the A52 do so in the direction of Kingsley. A much smaller number of vehicles turn right in the direction of Ashbourne.

- \* The vast majority of vehicles entering Whiston Eaves Lane from the A52 turn and travel up Black Lane to the heart of the village. Of these vehicles I estimate 66% are residents and the remainder are travelling to Whiston Hall Golf Club. ( PJH 1 -photo/ traffic monitor 23/8/14). Only a very few travel in the direction of Oakamoor.

- \* Virtually but not quite all vehicles that daily pass my home in either direction are my neighbours whose homes are clustered either side of Whiston Eaves Lane or in Brookfield Close. The dwellings are numbered 2-14 on the western side of the lane and 1-11 on the eastern side. In Brookfield Close they are numbered 1-4. I can give details of the daily pattern of vehicle movements related to my neighbours if required.

- \* Other vehicles passing my home in either direction during week days are driven by two or three parents who currently live in the Black Lane area of Whiston and who have school age children that attend Primary school in Oakamoor. I note that two of these families occupy rental properties in Black Lane. I have observed that in the main families occupying these properties appear to move away after about six months.

- \* My observations demonstrate that taken across a full year the number of vehicles using Whiston Eaves Lane to travel in either direction passed my home is stable at 50-60 vehicle movements per day. Of these about 75% are my near neighbours most of whom pass my home to reach their own home or in order to turn their vehicles around in the mouth of Brookfield Close and then leave the village via the A52.

- \* there are a very few exceptions to the above pattern of vehicle usage passing my home. These would be;
- (a) Randomly and infrequently residents drive to my home to post letters in the letter box positioned next to my home.
  - (b) a very limited number of farm vehicles pass my home, predominately in the harvest season.
  - (c) twice a year in the early summer and late autumn the Methodist Chapel holds a money raising car boot on the nearby village hall car park.
  - (d) occasionally wedding parties are held, mainly on a Saturday night, at the village hall. These seem to be less frequent than some years ago. Even less frequently fund raising barn dances and concerts occur in the village hall.
  - (e) on Monday mornings most weeks of the year approximately 6 cars will travel to and from the village hall to bring players to play table tennis between 10am- 11.30am. Likewise 4-5 cars will visit the village hall on Thursday mornings between the same times when approximately 6-8 elderly residents engage in keep fit classes. Late on Friday afternoons and sometimes of Tuesday evening two or three cars will take 4-5 elderly male residents to play carpet bowls.
- (exhibit PJH 2- letter to JC dated 1/11/2015 re emissions', FOIA request Letter to SCC Highways 8/11/14 emissions/ environment/ health)

## **6. Conclusion.**

I can say with some degree of accuracy and confidence that the number of vehicles using the road to and from Oakamoor daily passing my home and not belonging to immediate residents and averaged across a year is rarely in excess of 10-20 and in reality probably less than that. I have allowed for some latitude because I am obviously not in a position to check routinely on traffic accessing Eaves Lane from Blakeley Lane and turning towards Oakamoor.

## **7. Highways Officer Paul Hurdus Trip rates and the Highway report in 0682**

As it became increasingly clear that the Appellants were nearing a submission of their application to develop Moneystone Quarry I became increasingly concerned that my attempts to uncover any potential 'trip rate' figure that the development might generate were not bearing fruit. I was aware of other residents from Whiston and wider afield also trying to uncover this fundamentally important figure.

Having discussed the issue with Mr. N. Cresswell, a resident of Moneystone, we both felt it prudent to attempt to convene a meeting in the village with the S.C.C Highways officer Mr. Paul Hurdus who was apparently dealing with the highway aspects of the then pending development.

Mr. Cresswell contacted the then County Councillor holding the Highways portfolio County Councillor, a Mr. Marylon and a meeting was fixed to take place commencing on the car park of the village hall and at 4pm. 9th. October 2012. Councillor Mike Marylon, Highways Officer Mr. Paul Hurdus, Mr Cresswell and myself met to discuss the proposed development.

It was agreed that it would be helpful to all concerned if Mr. Cresswell conveyed all present around the local rural road network. Before doing so there was a general discussion about the restrictions imposed on the proposed development by the constraints of the rural road network. Mr Hurdus was holding a clip board with some A4 sized paper attached to it. Mr. Cresswell voiced his concerns about the lack of information about 'trip rates' and the inevitable increase in car exhaust emissions.

I expressed my concerns for residents who were predominately elderly and likely to be adversely affected by any significant change in air quality. Other aspects of the effects of the proposed development included the narrowness of the rural roads surrounding the quarry, and the existing effects of the nearby Alton Towers attraction etc. were also mentioned. Mr. Hurdus, unprompted, then spoke of his frustration at not having answered his detailed questions which he had sent to the Applicants solicitors. Somewhat dramatically Mr Hurdus waved a double sided hand written list of questions he said had been asked of the Appellant's solicitors and added that in some cases he had been waiting 10 months for answers.

I asked Mr. Hurdus if I might read the list of unanswered questions. He told me I could not see them as they were confidential. The four of us then got into Mr. Cresswell's car and began a tour of all the rural road network most likely to be adversely affected by the proposed development. Whilst driving along Blakeley Lane, passing Moneystone Quarry 2 on our left hand side, Councillor Marylon commented to Mr Hurdus that Blakeley Lane was too narrow and unsuitable to carry any volume of traffic. Oddly, given that Mr. Hurdus had earlier declined to reveal information for reasons of confidentiality, he revealed that he had discussed with the developer the possibility of using Blakeley Lane as part of a one way system to regulate traffic in and out of the development site but he had specified that the road would need to be widened and the verges removed to facilitate such a proposal. Mr.Hurdus said that developers had rejected the suggestion on the grounds that it would be too expensive.

During the tour of the rural road net work we stopped in Whiston Eaves Lane and got out and walked to the mouth of the A52 junction. Councillor Marylon commented upon the very poor range of drivers vision into and out of the junction. Mr. Hurdus spread his arms in a gesture of frustration and said, "I know, it is just hopeless".

We then moved on to the junction of the A 52 with Ross Road which was approximately 200 yards away on the Kingsley side. Mr. Hurdus revealed that he had considered an alternative one way system with the developers which entailed traffic leaving the development on a route between the rear of Quarry 1 and 3 and emerging onto Ross Road which was then and remains a dead end road. Mr Hurdus and Councillor Marylon quickly agreed that the junction of Ross Road and the A52 presented many of the same dangers as the junction with Whiston Eaves Lane, including very restricted ranges of vision, a blind summit and a very steep gradient where the roads met.

Mr. Hurdus opined that the Ross Road junction was, in his words a "none starter" as a means of solving what all agreed seemed to be an intractable problem. Following a brief discussion before parting I asked Mr. Hurdus to release to me the trip rates as soon as possible so that I could use them to help formulate my decision in the matter of the development at Moneystone Quarry. He agreed to do so at some unspecified future date.

## **8. Subsequent Events.**

I never heard from Mr. Hurdus as to the trip rates. I therefore emailed him requesting them. I got no response. I was aware that Mr. Cresswell was also having no response to his email requests. In October 2014 I became aware that the application SMD/2014/0682 had been validated by SMDC. I urgently emailed Mr. Hurdus and told him I wished to attend his office and examine his paper file. By this time I knew that Planning Guidance 'Probity in Planning' and FOIC guidance provided that once a planning application was in the public domain all relevant information should be made public. (see also FOIA Guidance generally Versions 3 & 4 )

Mr Hurdus emailed me quite promptly to say I could not examine his file. (see SCC FOI request dated 8/11/14) ( PJH 3). In my emailed response to Mr Hurdus I insisted I had a right to see the planning file.

Mr. Hurdus replied that I did not need to do so as all information was available on line. Having checked in advance I knew that it was not. I insisted that I was attending his office to read the planning file. Mr. Hurdus prevaricated saying he could not be available. Finally I specified that I would attend at his office at 2 pm on the 5th. November 2014 and asked that he made the whole file available to me.

I was expected by the receptionist. Mr. Hurdus was not present. I was handed a thin brown manilla file containing a few sheets of paper. I recognized it as a photocopy of the front page of the SMD/2014/0682 planning application and some plans. It had the Highways department stamp on it showing the date it had been received via the SCC internal post. Mr. Hurdus had written in pencil across the top of the file '***I cannot reach this until next year***'.

I checked with the receptionist and it was confirmed that there was nothing else for me to examine. On the 8th November 2014 I submitted a Freedom of Information request to Staffordshire County Council( PJH 3) in an attempt to discover the trip rates at the proposed Moneystone Quarry development.

I draw to the Inspector's attention the specifics of my request and in particular those set out at numbered paragraph 8 of my request of the 8/11/2014 and in particular these words, '**....and the Highway authority to which the environmental and health provisions of the Aarhus Convention Treaty apply and specifically how the Highway Authority has ensured compliance with the treaty requirements.**'

I refer the Inspector to the response to my FOIA request dated 23/12/14 ( PJH 4) in it's entirety and specifically the wording of the grounds for refusal. I draw to the Inspector's attention to the Environmental Information Regulations 2004 and the guidance issued by the Freedom of Information Commissioner on the 14th. September 2009. ( PJH 5) at page 8.

In dealing regulation 12(5)(f) the ICO says,

'A public authority **cannot use this exception for environmental information that relates to information on emissions;** (see regulation 12(9) below'.)

On page 9 of the same document (ibid) under the heading ' Regulation 12(9) Information relating to emissions' appears this quote;

'**A public authority cannot use the following exceptions for environmental information that relates to information on emissions.....12(5)(f)...**' and then continues thus..

**..' Our view is that the exception is not limited to emissions that have already taken place, but could include past, present and future emissions.'**

By email dated 2nd October 2014 Statutory Consultee Natural England sent to SMDC Case Officers Jane Curley ( 0682) and Arne Swithenbank ( related solar farm application SMD/2014/0220) and entitled 'Environmental Impact Assessment Scoping consultation (Regulation 15(3)(i) of the EIA Regulations 2011) Location Moneystone Quarry Staffordshire' the attached document (PJH 6). I draw to the Inspectors attention specifically the contents of paragraphs 5, 6 and 7 of the document.

In a document dated 12th. January 2012 entitled ' Moneystone Quarry, Whiston Eaves Lane ....Environmental Impact Assessment- Request for Scoping Opinion.....' sent by Case Officer Mrs. J. Curley to the Appellants Senior Environmental Consultant at HOW Planning appearing under a heading 'Vehicular Highways' I draw to the Inspectors attention the contents of paragraphs 2.2.1 and 2.2.2.( PJH 7)

The disclosure of material ordered by the Information Commissioner to be disclosed and sent to Mr. Ivan Kent by SMDC under cover of a letter dated 27/8/2015 ( IK 1) and my own FOIA request ( PJH.3) expressly on the issue of traffic matters and specifically on 'trip rates' and the consequent and likely adverse health effects of emissions thereby caused , I draw to the Inspectors attention the content of the minutes of a meeting between the Appellants, their Agents, Officers of SMDC Planning Authority and SCC Highways dated 21/10/2010 ( IK 2 & IK 3) at page 2 -3 and paragraphs 4.1- 4.7. I invite the Inspector to compare and contrast the above with the evidence given below by myself and separately by Mr. Cresswell arising from the meeting with Mr. Paul Hurdus on the 9th. October 2012 in Whiston, and FOIA requests concerning ' trip' rates etc.

Again with regards to the traffic issues and emissions I draw to the Inspectors attention to exhibit ( IK3) disclosure material in the Minutes of a meeting between the Appellants and SMDC Planning Officers on the 15/3/2011 at paragraphs 2.1- 2.7 inclusive. In the same minutes I draw to attention the contribution of Highways Officer Paul Hurdus at the item 'Highways'. at paragraphs 4.1- 4.4

It was eventually decided by SCC and set out in a letter dated 23/12/2014 **that it was not in the public interest that I should be told.\* the information I had requested, applying EIR (12) (5) (f) and not complying with EIR (12) (9).**

\* see above attached FOIA request dated 8/11/14) and the refusal dated 23/12/14 (PJH)

As a result of the note of Mr. Hurdus that ' I cannot reach this until next year' in December 2014 I believed that Mr.Hurdus had not at that time prepared and filed his Highway report. On behalf of residents I had commissioned an independent Traffic expert report from Paul Mew Associates of London. I asked Paul Mew to ensure that his report be completed urgently so that I could file it with Mr. Hurdus before he concluded his report and sent it to SMDC Planning Authority.



Mr Mew explained to me that as a matter of professional courtesy and protocol he was obliged to serve a copy of his report on Mr. Hurdus directly which he did. Neither he nor myself received any acknowledgement from Mr. Hurdus or SCC Highways.

In consequence of not knowing the trip rate data Mr Cresswell, and myself pressed for a meeting with the (new) County Councillor holding the Highway portfolio, a Councillor Deaville. We attended a meeting with Councillor Deaville in his Office in County buildings Stafford on 30th. November 2015.

At that meeting we were introduced to Highways officer Mr. J. Long who explained that he knew very little if anything of the Moneystone Quarry development or the area. He explained that any work done on the highway issues on the proposed development would have been done by Mr. Hurdus. After we had aired our grievances Councillor Deaville promised an investigation. (we were never told the outcome if any)

Resident of Oakamoor, Mr. David Walters has contacted me and showed me a pro forma copy of a Highways report relating to planning application SMD/2014/0682 which I had never seen before.(see DW exhibits ) Written in red across the report was the word 'DRAFT'. I could see that the draft report was signed in the name of Mr. Paul Hurdus and that it was dated the 24/12/14.

I was to discover subsequently that Mr. Hurdus had left the SCC Highways on the 24th December 2014 without ever completing a report.

Because I know that Mr. D. Walters ( Rule 6) on behalf of CVCS has direct and further first hand evidence to give on these matters I will reserve my position and will seek leave from the Inspector to give further evidence if I feel it necessary after Mr. Walters has presented evidence on this point. It logically follows as evidenced by the dates and details given above, Mr. Cresswell and myself were pursuing our attempts to uncover the very important trip rate figures for the development SMD/2014/0682 at a time when, unknown to us, Mr. Hurdus had left the Highway Authority without preparing a definitive highway report.

Further, even as I was going through the process of a Freedom of Information request, SCC Highways were without an officer to prepare a report. At a date still not established with any accuracy Mr. J. Long was appointed to that role. Mr. Long admitted in a meeting on 30th. November 2015 with Councillor Deaville that he did not know the area and was not familiar with the proposed development. I understand that Mr. Long has made further revelations to Mr. D. Walters that may be significant.

It would be appropriate here to point to the evidence that Mr. Ivan Kent will give concerning the Order made by the Information Commissioner requiring SMDC Planning Authority to disclose to him various material relating to SMD/2014/0682. Neither myself nor Mr Kent knew until very late in October 2015 what information this documentation contained. ( see Mr. Kents Statement of evidence and exhibits) Whilst I leave Mr. Kent to lead the evidence on this aspect I reserve the right to give any further evidence on this issue as seems proper and with the leave of the Inspector.

## **9. Related Highway Report issues.- SMD/2014/0682**

Highway Officer Mr. J. Long attended the sitting of the PAC meeting held in the Council Chamber at SMDC in November 2015. He sat in the body of the Chamber with members of the PAC. When the issue of highways and traffic generation matters were raised by members of the PAC he was directly questioned by the Chairman, Councillor M. Worthington and PAC member Stephen Ellis. They questioned his knowledge and understanding of the rural road network. Ultimately Councillor Ellis forcibly expressed his view that Councillors on the PAC knew the location well and the traffic issues surrounding the site of the development SMD/2014/0682 and they had seen two independent reports from Traffic experts submitted by Whiston Action Group (WAG) and the Churnet Valley Conservation Society ( CVCS) and preferred to rely upon those reports and their own local knowledge of the rural road network.

**The PAC expressly asked for legal advice from the Solicitor sitting to advise members. The solicitors advice was that they were entitled to reject the evidence of the SCC Highways officer provided that they did so based on the alternative Highway reports filed on behalf of objectors and also used their own local knowledge of the development site and its setting in the rural road network.**

The Solicitor advised that on such a basis the decision would be likely to be upheld in the event of any legal challenge.

I am aware that Mr. J. Long Highways officer has confirmed to Mr. D Walters ( Rule6 - CVCS) that no paperwork from Mr. Hurdus' file exists and that any work on SMD/2014/0682 was done by Mr. Hurdus and not himself. I leave to Mr. Walters the direct evidence of this admission.

## **9. SMDC CORE STRATEGY**

Together with other residents of Whiston, Moneystone and Oakamoor I was a party to and in and attended each day of the public hearing conducted by Planning Inspector Mr. Patrick Whitehead. The presentation of the case for the Core Strategy was made by Planning Officers Mr P. Wardle and Mr. G Clark. The public hearing before Mr. Patrick Whitehead commenced on the 5th. February and concluded on 7th February 2013. At the hearing on the 6th. February 2013 Mr. Whitehead expressed his dissatisfaction with policy SS7 and invited Whiston Action Group to rewrite the policy and meet with Mr. Wardle and Mr. Clarke to try and agree an acceptable alternative policy. Residents met with Mr. Wardle and Mr. Clarke on 28th. February 2013 when they refused to countenance any changes to the policy SS7 as they had drafted it. It is not known what conclusions Mr. Patrick Whitehead drew from the Officers rejection of residents proposed changes to Policy SS7. The Inspector Mr. Patrick Whitehead required changes to be made to policy SS7.

Under reference MM44 the Inspector required the insertion into the SS7 policy these additional words;  
**'Complementary and sensitive highway improvements to access routes and/or measures to support other alternative means of access will be required to serve any developments which generate significant additional demand for travel.'**\*

\* Emphasis added.

In the light of the abandonment of the appeal at the hearing of this appeal on the 27/7/17 of the NRT application SMD/2016/0388, coupled with the reasons given by the members of the PAC when refusing that linked application and the terms of the refusal notice issued on 2nd. December 2015 in the instant Appeal, and additionally, the reasons given in the refusal notice dated 26th. October 2016 in the now abandoned 0388 appeal, it will be a matter for the Inspector to interpret if, and if so how, the Appellants meet the requirements of the amendments to Core Strategy Policy SS7 under reference MM44 highlighted above.

With regard to the Core Strategy process and the required amendments insisted upon by the Inspector Mr. Patrick Whitehead under Modification MM36 SMDC met on the 25th. July 2012 and amended Core Strategy Policy SD3 **'to include land as follows- "The Council will ensure that the effects of pollution (air, land, noise, water, light) are avoided or mitigated."**

## **11. Relevant Correspondence from the Appellants.**

When the Appellants 'resubmitted'[ sic] their application SMD/2016/0682 but which was ascribed the reference SMD/2016/0378, they also issued the now abandoned appeal under reference SMD/2016/0388. The covering letter which the Appellants agents attached said this;

' The Council refused application SMD/2014/0682 on four grounds relating to highways, landscape, heritage and planning balance. It is the position of Laver Leisure. that the original leisure proposals are in accordance with the development plan and therefore represent sustainable development. Nevertheless, Laver Leisure have sought to accommodate the concerns of the Planning Committee and this [sic] planning application is submitted to address the highway reasons for refusal and specifically seeks to reduce the amount of traffic that would use Carr Bank.  
The no right turn access would prevent visitors exiting the development [sic] turn right onto Eaves Lane which leads on to Carr Bank.  
The junction design would require the visitors exiting the development to turn left and encourage onward travel to destinations such as Alton Towers via the A52...'

At the High Court hearing of the Judicial Review in respect of SMD/2016/0378 on the 20th. July 2017 before HHJ Pelling QC, Counsel for Laver Leisure confirmed orally in my hearing, that the intention was that, if approved, the separate permission\* for the new site access could be relied upon by Laver Leisure in the context of its appeal against the refusal of the original application' \*\*

\* SMD/2016/0388

\*\* SMD/2014/0682

In view of the abandonment of the appeal on 27th. July 2017 against the refusal of SMD/2016/0388 linked to the quoted comments in the covering letter to the application that was renumbered SMD/2016/0378, it will be a matter for the Inspector to construe, how, if at all, the Appellants have complied with the required changes to the Core Strategy Policy SS7 under reference MM44 and whether SMDC Case Officers ever considered the amendment to Core Strategy SS7 as amended by MM44.

In doing so the Inspector will need to consider the reasons given by both the PAC and the formal notice of refusal of SMD/2016/0388. Further the Inspector may need to consider how, if at all, the contents of which ever of the two Section 106 agreements prepared in this appeal that is now advanced as part of it, fit the stated intentions of the appellants as evidenced above. It maybe that the Inspector will also feel the need to address other issues on this aspect of the appeal subject to evidence given by various witnesses in the case.

The Planning Agents for the Appellants, HOW Planning in June 2016 produced a document entitled 'Statement of Community Involvement'. Meta data analysis is not yet to hand to show when that document was first made available to the public. It reveals information not previously known except to the parties directly involved.

The Inspector is referred to the statement of evidence of Mr. I. Kent and the exhibits it contains. He is also referred to the contents of the section herein dealing with meetings with the Council Leader Sybil Ralphs. The Inspector will know that in September/ October 2015, following an order made by the Information Commissioner in Mr. Kents favour, SMDC was order to make disclosure of material. That disclosure was and remains incomplete. The Statement of Community Involvement dated June 2016 identified a meeting between the Appellant's, their Agents, SMDC Senior Officers and Ward Councillors which took place on the 24th. May 2010. Neither the fact of that meeting taking place nor the content of the meeting was disclosed by SMDC in compliance with the FOIC order. This raises procedural and substantive issues made the more significant, appearing as it does in a document entitled 'Statement of Community Involvement'. \*

\* The disclosure such as it now appears was not in compliance with the SMDC SCI.

## **12. The Restoration Vision for Moneystone Quarry.**

In September 1996 Christine Whiteley HMC Landscape Architect, was commissioned by British Industrial Sand (B.I.S), the then owners of Moneystone Quarry to design the restoration Scheme for the end of life said this;

' Woodlands, hay meadows, wetlands, heathland, hedgerows and construction of dry stone walls all feature in the restoration vision.'

" Our aim was to come up with an exciting plan which allowed progressive restoration of the older working areas to blend them with the surrounding landscape and to create a variety of new habitats for plants and wildlife."

" We are even looking at the possibility of a bat cave once the tunnel on site becomes redundant."

" The final restoration concept for the whole site is dependent upon the development of the new quarry area as a means of providing the necessary soils and overburden to re- contour the site in an interesting way and to create specific habitats."

To promote local support for the restoration of Moneystone Quarry BIS handed out plasticized copies of 'The restoration vision.' ( PJH 8) It was this vision that resulted in the restoration scheme approved by SCC Mineral Authority Planning Committee.

Residents are entitled to believe that this restoration vision will be followed.

Photographic and other visual evidence demonstrates that the tunnel beneath Eaves Lane will not be used as a 'bat cave', no dry stone walls have been built or rebuilt and further that they are being allowed to collapse. There are no hay meadows. For 7 years the development site has resembled a desert landscape save only where nature intervened.

### **13. Landscape & Settlement Character Assessment Brief For Staffordshire Moorlands District Council - 2008.**

In 2008 SMDC Commissioned the above Character Assessment.

At paragraph 1.1 the Brief commences thus, 'The Government has made it clear that the policies in local development documents must be founded on a thorough understanding of the needs of the area and the opportunities and constraints that exist.....This study is a vital part of this evidence base.' I invite the Inspector to read the balance of the document.

Specifically I draw the Inspectors attention to Paragraph 2 headed 'Coverage'. I note that the brief does not require any assessment of Moneystone or Whiston. At paragraph 5.1 under ' Methodology Stage 2- Settlement Setting Assessment' this appears;

' The methodology will take into account the findings of the Landscape Character Assessment and include a more detailed assessment of the settlements listed in paragraph 2.1 to inform the identification of suitable areas for development.' Again there is no mention of Moneystone or Whiston.

At paragraph 8 under a heading of 'Supporting Documents' there is no mention of Moneystone or Whiston. It is clear from the Brief that there was no requirement for a Landscape & Settlement Character Assessment to be carried out for Moneystone and Whiston.

In that respect there has been a procedural as well as a substantive failure. The Inspector may feel that he is placed in a serious difficulty by this failure.

### **14. Heritage and Listed Buildings.**

I am aware that on behalf of CVCS, residents of Oakamoor, Whiston and Moneystone Mr D. Walters (rule 6) is to give evidence in respect of Heritage and Listed Buildings. I know of his expertise and research into these topics, approve and adopt his findings and for the sake of brevity leave him to deal with them. I reserve my right to ask questions or give evidence on them with the permission of the Inspector.

### **15. Evidence on SMD/2014/0682 arising from meetings requested by SMDC Leader Councillor Sybil Ralphs.**

In 2014/2015 at the express request of the Leader of SMDC, Councillor Sybil Ralphs a series of meeting were held to discuss issues of mutual concern. In addition to Councillor Ralphs, SMDC Senior Officers attended on separate occasions. These were Mr. D. Larner and Mr. R. Weaver. Also present at those meeting on differing dates were myself, Mr. N. Cresswell, Mr. I. Kent, and Councillors Mr. John Steele and Mr. John Williams. Mr. D. Larner attended specifically to deal with questions from Mr. Kent about the 250 lodges proposed at Moneystone Quarry in SMD/2014/0682 and questions about the Planning Authorities approach to and compliance with the provisions of the Aarhus Convention Treaty.

Mr. Weavers attendance was to deal with complaints about the repeated failure of the SMDC Planning web site.

I am aware of the evidence of Mr. Ivan Kent to this appeal generally and specifically. I was a witness to Mr. Kent's conversation with Mr. Dai Larner as was Mr. Cresswell at the meeting in the office of Councillor Ralphs concerning the inclusion of the figure of 250 lodges in the Churnet Valley Master Plan. I can corroborate the accuracy of Mr. Kent's evidence. I can also give evidence of Mr. Larner's answer to a question about the SMDC's approach to the Aarhus Convention Treaty.

## **16. Whiston Action Group- Alternative Churnet Valley Master Plan February 2012.**

I produce a copy of the above document ( PJH 9) Together with other concerned residents of Whiston, Moneystone, Oakamoor and the wider Churnet Valley, the persons named on page iii researched, wrote and collated the material contained within the document. The motivating reason for the production of that document is contained within it. It is a Churnet Valley wide document. Clear evidence that Moneystone Quarry had been pre- determined by SMDC Planning Authority and it's officers without consultation with residents affected was contained within a letter ( \*) which was delivered to my home anonymously between 1am- 6 am as I was doing the final proof reading of the WAG Alternative CVMP in order that the manuscript could be delivered to the printers. A copy of the printed Alternative CVMP was hand delivered by the then Chairman of WAG Mr. H. Blood to SMDC and evidenced by a photograph taken by and published in the Leek Post & Times.( PJH 10). At a meeting with Councillor Sybil Ralphs at her request held in her office she admitted to never having seen the WAG Alternative Churnet Valley Master Plan and asked that I provide with a personal copy, which I did.

## **17. A history of failure to provide information on environmental and health grounds.**

\* I first became aware of a persistent failure of SMDC Planning Authority to provide information to residents about specific planning applications and/or ' consultations' in about 2011.

\* I am aware that a number of other witness are to give evidence to the Inspector on both general and the specific examples of this failure. For that reason and because various exhibits are already before the Inspector I will only give limited further evidence of those failures.

\* I am aware of various formal appeals to PINS arising from planning applications in which evidence was presented that the SMDC planning portal repeated failed to operate at all or show important information. I am aware that following a significant and repeated failure in one wind turbine case, a case officer at PINS acting upon a plea from a Miss Turnock, carried out a check of the SMDC Planning website and discovered that an out of date 'word format ' was being employed by SMDC rendering it largely unsuitable for the display of various types of planning documents. A number of local planning action groups began to collate evidence of these repeated failures of the website. It was this experience that led to this being an agenda item at the meetings with and in the office of the Leader of the Council Sybil Ralphs. It was also one of the reasons Mr. R. Weaver Senior Officer attend one of those meetings. Mr. Weaver was mandated by the Leader to investigate the repeated failures of the planning website.

\* it is the case that before the Information Commissioner will accept a complaint about a failure to provide information by a public body, the internal complaints procedures have to be exhausted. I am aware of widespread and repeated dissatisfaction with the SMDC complaints process. I exhibit an example of my own letter of 18th. December 2013.) My complaint was ignored. I draw the Inspectors attention to paragraphs 7-10 of that exhibit as an example of how a failure to supply information of environmental and health information prevented me from playing a democratic role in the shaping of the Churnet Valley Master Plan on the basis of my informed consent and with particular regard to environmental and health issues.

## **18. Vehicle Emissions.\***

The rural road network connecting Oakamoor with Whiston meets at the junction of Whiston Eaves Lane and the A52, a major commercial highway link between north Staffordshire and Derbyshire. It does so at the bottom of a narrow and steep declination when traveling from either the direction of Kingsley or Ashbourne. On either side of the A52 there are stretches of high walls built in the local vernacular style, steep verges and a significant number of large mature trees. The A52 carries a mixture of traffic. As volumes of commercial supply-chain HGV's have grown and are increasingly driven by foreign drivers using satnav and seeking to avoid traffic bottle necks on other trunk roads, the A52 now carries a substantial and increasing number of HGV's each day of the week through the village of Whiston.

Whiston Bank is a nationally known dangerously steep feature of the A52. It has an escape lane. Private car drivers and HGV drivers unfamiliar with Whiston Bank frequently get stuck on the ascent from Frogall. When that happens the only alternative to a long wait whilst the police and breakdown rescue vehicles arrive is for all traffic to be diverted onto the unsuitable and very narrow rural road network.

Because of the narrowness of the rural road network this results in the generation of toxic emissions in an otherwise green environment. Experience shows that taken across a full year HGV's break down on Whiston Bank approximately once a week. The combined effect of the steepness of Whiston Bank, break downs and resultant diversions via Ipstones, Foxt, Cotton etc. means that there is an extant problem of toxic emissions. The 'bowl' shaped hollow that is the Junction of the A52 and Whiston Eaves Lane means that HGV's travelling in either direction have to change into a lower gear and accelerate hard to ascend the steep hills they face. The resultant increase in toxic emissions is trapped within the 'bowl' of the junction with resultant adverse health implications for residents.

It is an accident of history that the Jubilee Gardens which provide the only public place within the community of Whiston where residents can sit and relax now finds itself positioned next to a 'bowl' of toxic fumes created by an increasing flow of traffic.

When the addition of a very substantial increase of traffic generated trips from the proposed SMD/2014/0682 development are added to the emissions mixture at the junction of Whiston Eaves Lane and the A52, I suggest that the development proposal could not be sustainable and would increase emissions not just close to the development site but over much of the surrounding rural road network.

As such the proposal would not be in line with paragraph 49 or Section 10 of 'Meeting the Challenge of Climate Change' of the NPPF. ( see Refusal of Planning Permission SMD/2017/0148).

Further and in the light of the High Courts recent ruling requiring the Government to honour it's Climate Change Treaty obligations by producing plans and policies to protect public health from traffic emissions, the addition of large traffic volumes onto the rural road network do not produce the social and economic benefits sufficient to significantly and demonstrably outweigh the environmental harm it would cause. It would therefore be contrary to Policies SS1,SS1a,SS6c, of the adopted Core Strategy Development Plan

Document and is not in line with paragraph 14 of the NPPF.

\* see appendix for documents and details where I have raised the issue of emissions and requested information to establish an evidence base.

## **19. Statement of Common Ground.**

As the evidence shows that Planners and Officers at various levels have been working with the Appellants since 2009-2010 and have written the SMDC Core Strategy and the Churnet Valley Master Plan to assist the Appellants "to bring forward the future redevelopment without having to overcome significant policy boundaries which may be set by the Core Strategy" it would be surprising if there were not a substantial degree of common ground between both parties. What benefit those facts has to the Inspector in reaching his decision is a matter for his judgement .

My only additional comment is that at under the heading 'Planning History at paragraph 3.7 there is a reference ' Key Brownfield Site. Moneystone Quarry is not a Brownfield Site.\*

\* See Glossary at Page 209 of the March 2014 Adopted Core Strategy and the NPPS.

The definition of Brownfield site ' **excludes land that is or has been occupied by agricultural or forestry building; land that has been developed for minerals....'** See also Page 55 of the National Planning Policy Framework ( NPPF).

## **20. The Section 106 Agreement(s)**

I draw to the Inspector's attention email correspondence arising from the Bristol PINS headquarters dated (the critical email, eg. 27/3/17 Mark Boulton and Jon Suckley). It may be that the Inspector will conclude that the evidence of such correspondence, reports and actions of the Planning Authority demonstrates an extraordinary level of disrespect for the role the Inspector has to discharge in this appeal. It is of course a matter entirely for him to determine.

## **21. The Six test rule.**

The Inspector will of course be familiar with the guidance given on the use of planning conditions ( <http://www.gov.uk/>) and in particular the six tests rule.

As he will know the six tests rule requires that conditions are;

1. necessary,
2. relevant to planning and
3. to the development to be permitted
4. enforceable,\*
5. Precise and
6. reasonable in all other respects.

\*CPRE- Enforcement; quality control in planning [www.cpre.org.uk/resources](http://www.cpre.org.uk/resources).

A useful guide to the difficulties and impediments to enforcing planning conditions.

See above under Heritage and Listed Building conditions and evidence from CVCS.

It is a fact that SMDC Planning Authority has transacted **two** separate Section 106 agreements In relation to the proposed developments at Moneystone Quarry. In both cases separate 'restricted' reports were prepared by a Senior executive officer of SMDC Mr. Dai Larnar and considered in secret session by the Planning Application Committee under an item appearing on their public planning agendas expressly identifying 'Moneystone Quarry' in the context of planning decisions of the SMDC PA based at Moneystone Quarry.

When carrying out a Risk Assessment in July 2017 of the proposals contained in a S 106 agreement which was handed to the Inspector by Counsel for the Appellants on the 27th. July 2017, Mr. D. Larnar , Executive Director said this;

' However in the Proposed Section 106 Agreements mitigated **to some extent the risk of the original Scheme, which was opposed by the Council being granted consent on Appeal'**  
**[ emphasis public]**

The first restricted report relating to 106 conditions was heard in secret session by the March 2017 meeting of the SMDC PAC.

The second restricted report was considered under a similar heading show on the official PAC agenda for the 13/7/17.

It is unclear to all rule 6 parties to this appeal, which version of the two Section 106 was handed to the Inspector by Counsel at the hearing on the 27/7/17. In consequence rule 6 parties are handicapped in knowing with exactitude which of the two versions they must deal with and indeed if they can rely upon the Planning Authority in the proper application of the 6 questions test.

It seems clear that Executive Director Mr. D. Larnar has accepted that ' to some extent' **only** are the risks of the refused scheme SMD/2014/0682 mitigated. It will be for the Inspector to determine if, in the light of this admission, the agreement has properly address the risks posed by the development and in particular the overarching requirements of policies SS7 and T1. Neither, I suggest, is the Section 106 handed to the Inspector on the 27/7/17 capable of passing the 6 questions test\*with specific regard to it's necessity, it's enforceability, it's lack of precision and it's lack of reasonableness.

\* GOV.UK Home ( <https://www.gov.uk/>) Guidance on the Use of planning conditions

Further I suggest that the condition with regard to number plate recognition is not compliant with the provisions of the Protection of Freedoms Act 2012 and the code issued thereunder.

I suggest that it cannot be reasonable for a Planning Authority to seek to, or be complicit in, a condition that would interfere with individuals freedoms under the law or hinder the free use of Whiston Eaves Lane/ Eaves Lane by motorists having legitimate access to Little Eaves Farm or Dusty Stile Farm or Oakamoor via Carr Bank.

That this must be self- evidently unreasonable lies in part because the factual publicly available record implies that the PAC considered such manifestly unreasonable conditions in secret. It also flies in the face of the finding by the PAC in SMD/2016/0388 that the substantive application to try and prevent traffic turning right upon leaving the site would create positive danger.

No reasonable PAC would determine to limit the public's freedoms without the public being given the open opportunity to express it's views on such a denial of the right to respect for private and family life set out in Article 8 of the ECHR, which enshrines in law a long held freedom enjoyed in England and Wales.

## **22. My representations and correspondence in the matter of SMD/2014/0682.**

I am aware from personal inspections of the ( paper) planning file relating to SMD/2014/0682, coupled to the experiences of other Rule 6 members having a similar experience that not all my representations were on the planning file and therefore could not have been taken into account when preparing a report to the PAC.

I annex to this statement a copy of all the relevant documents so that the Inspector may have the opportunity to consider those antecedent representations to enable him to weigh them in the balance he has to perform. (PJH 11)

## **23. Appellants Inquiry Justification February 2016,- SMD/2014/0682,Statement of Case - SMD/2016/0388.**

I draw the Inspectors attention to the contents of the above two documents. With regard to the document entitled 'Inquiry Justification' dated February 2016 I direct the Inspectors attention to page 1 of that document at paragraph 2. In commenting upon the Council's grounds of refusal of SMD/2014/0682 the Appellant through its agents says this about the refusal, ' The Council's stance appears to be both **procedural as well as substantive.....**'

It is clear from that construction that the Appellants intend to provide,

'detailed technical consideration [which] will need to be given to issues relating to methodology and the third edition Guidelines for Landscape and Visual Appraisal.'

The Inspector will need to consider if and if so how the Appellants have addressed those procedural and substantive issues. Further the Inspector will no doubt be conscious of providing other witnesses with an opportunity to comment upon and where evidence exists to counter representations made by the Appellants under this aspect of the case. So far rule 6 members have not had the opportunity to see this material.

I draw to the Inspectors attention full 'Statement of Case' prepared by Agents on behalf of the Appellants in the matter of SMD/2016/0388 ( now abandoned) and dated February 2017.

I respectfully draw to the Inspectors attention the whole of paragraph 2.27 at page 8 of the document.

A number of things become clear.

The paragraph starts [sic] ' This **re- submitted application** sought to accommodate the concerns of the Planning Committee'.

It is presumed that this comment in fact relates to both the application SMD/2016/0378 and SMD/2016/0388. Certainly that is an entirely proper construction of the plain words used. Further in the second sentence of the initial paragraph the authors make clear that they are not only talking about SMD/2014/0682 but also SMD/2016/0378 which they describe as '**a re- submitted application**' .

This wording makes it abundantly clear that the Appellants regard the application as being in reality a resubmission of 0682. This begs the question of why SMDC felt the need to allocate it a different number. The Inspector may need to resolve for himself whether he is dealing with a resubmitted application or a new one. This raises procedural and substantive issues.

The balance of paragraph 2.27 then appears to take a large wooden spoon and stir together a ' mess of pottage' which contains the three applications together.



What are the other parties to this Appeal expected to make of this process?

Perhaps having and eating ones 'pottage' in whichever convenient form suits the arguments that the Appellants want to make irrespective of the actuality, is what they intend. The question arises as to whether this is a legitimate approach. It is something the Inspector will have to resolve.

With respect, and putting to one side the unfairness to the Rule 6 members of this situation, the Inspector is asked by the Appellants to determine the appeal by rolling the appeal into applications which is simply not before him, namely SMD/2016/0378 and SMD/2016/0388.

## **24. Conclusion**

I have tried throughout this statement to provide to the Inspector evidence of factual matters that I hope will assist him in resolving some of the complex issues raised in this appeal. I have also tried, perhaps not always successfully, to avoid expressing opinions, so that he may exercise that difficult function without impediment from me.

It must necessarily be the case that at the time of this statement I cannot know, except in a very general sense, what evidence other witnesses will give at the appeal and so I am unable at this juncture to address properly matters of a procedural and substantive nature(\*) or any issues of law that might apply to the evidence given. (\*) paragraph 2 Appellants Inquiry Justification February 2016 - SMD/2014/0682

I understand however that participants are to be given the opportunity to address the Inspector by way of summarizing the issues towards the end of the Appeal hearing and so I reserve my position to do so at that time.

Paul Housiaux

2<sup>nd</sup> October, 2017